

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SFA SYSTEMS, LLC,	§	
Plaintiff,	§	Civil Action No. 6:09-cv-340-LED
v.	§	JURY TRIAL DEMAND
1-800-FLOWERS.COM, INC., et al.	§	
Defendants.	§	
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SFA SYSTEMS, LLC,	§	
Plaintiff,	§	Civil Action No. 6:10-cv-00300-LED
v.	§	JURY DEMANDED
BIGMACHINES, INC., et al.	§	
Defendants.	§	

**JOINT CLAIM CONSTRUCTION AND PREHEARING
STATEMENT PURSUANT TO P.R. 4-3**

Plaintiff and Defendants in these two actions hereby submit the parties' Joint Claim Construction and Prehearing Statement pursuant to Patent Local Rule 4-3 and the Court's Docket Control Orders entered in these actions.

The patent in suit is U.S. Patent 6,067,525, entitled "Integrated Computerized Sales Force Automation System," (the "'525 patent"). The '525 patent issued on May 23, 2000, from an application filed on October 30, 1995.

Section I identifies the claim terms and phrases of the '525 patent for which the parties have agreed as to the proper construction. Section II and Exhibits 1-3 set forth the parties' proposed constructions for the disputed terms and phrases of the '525 patent, along with the identification of supporting intrinsic and extrinsic evidence. Section III states the parties' positions regarding the length of the claim construction hearing. Section IV addresses the expert testimony that the parties may rely on

in support of its proposed claim constructions. Section V addresses the parties' current position on the need for a prehearing conference.

I. Agreed Claim Constructions [P.R. 4-3(a)]

Pursuant to P.R. 4-3(a), the parties have agreed to the construction of the following terms:

Claims	Claim Term	Agreed Upon Construction
1, 20, 24-25, 40	"inferring"	"logical process by which a factual conclusion is derived from known facts by the application of logical rules"
1, 20, 40	"inferring occurrence of an event"	"logical process by which the fact that an event has occurred is derived by application of logical rules"
Claims	Claim Term	Agreed Upon Order of Performance of Method Steps
20	"the method comprising the steps of: automatically detecting . . . ; inferring . . . ; and automatically initiating . . . "	Sequential, in the order written (<i>i.e.</i> [1] automatically detecting..., [2] inferring occurrence..., and [3] automatically initiating...)

If the parties reach agreement regarding any other claim terms at a later date, they will supplement the present Joint Statement.

II. Disputed Claim Constructions [P.R. 4-3(b)]

Pursuant to P.R. 4-3(b), the chart attached as Exhibit 1 to this Joint Statement contains disputed patent claim terms, phrases, or clauses for which Plaintiff and Defendants propose different constructions. The parties dispute whether §112, ¶ 6 applies to any claim limitations. Plaintiff contends that §112, ¶ 6 does not apply to any claims. Defendants contend that §112, ¶ 6 applies to certain claim limitations identified in Exhibit 1.

Exhibit 2 provides Plaintiff's identification of intrinsic and extrinsic evidence supporting its proposed constructions, as required by P.R. 4-3(b). Attached as Exhibits 2-A through 2-I is the extrinsic evidence referenced therein.

Exhibit 3 provides Defendants' identification of intrinsic and extrinsic evidence supporting their proposed constructions and Defendants' proposed structure(s)/act(s) for the claims that Defendants

contend are governed by §112, ¶ 6, as required by P.R. 4-3(b). Attached as Exhibits 3-A through 3-H is the extrinsic evidence referenced therein.

III. Length of Claim Construction Hearing [P.R. 4-3(c)]

The Court's Docket Control Order schedules the claim construction hearing to be held on April 7, 2011. Pursuant to P.R. 4-3(c), the parties request three (3) hours total, one and a half (1.5) hours per side for the claim construction hearing.

IV. Live Witness Testimony at Claim Construction Hearing [P.R. 4-3(d)]

The parties do not intend to offer any live witness testimony at the claim construction hearing.

V. Other Issues [P.R. 4-3(e)]

The parties agree that neither side will submit a witness at the claim construction hearing. Instead, both sides will submit only expert witness declarations in support of their claim construction positions limited to the topics of whether the "plurality of subsystems. . . ." and "event manager" limitations should be construed under 35 U.S.C. §112 ¶6. The parties will not submit any expert witness testimony regarding any other claim construction issues.

The Defendants will provide Plaintiff with their draft expert declaration no later than February 15, 2011. Plaintiff will provide defendants with its draft expert declaration no later than February 18, 2011. Both sides agree to extend the deadline for claim construction discovery should either side determine the need to depose the expert witness regarding the testimony set forth in the claim construction declaration submitted as discussed above.

The parties are unaware of any additional issues that might require the scheduling of a prehearing conference.

Dated: February 8, 2011

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a) on February 8, 2011. Any other counsel of record will be served by facsimile transmission and first class mail.

/s/ Eric W. Buether

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